

The 16th January, 1995

No. 14/13/87-6Lab./1154.--In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of Secretary, Board of School Education, Haryana, Bhiwani *versus* Raghbir Singh.

BEFORE SHRI B.R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, HISAR

Reference No. 54 of 1990

Date of receipt : 13-2-1989

Date of decision : 5-4-1994

SHRI RAGHBIR SINGH, S/O RAM CHANDER,  
VILLAGE JAGSI, TEHSIL GOHANA, DISTRICT SONEPAT

*versus*

SECRETARY, BOARD OF SCHOOL EDUCATION, HARYANA, BHIWANI

*Present :*

Shri T.C. Gupta, for the workman.

Shri D.S. Pawar, for the management.

#### AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act'), the Governor of Haryana referred the following dispute between Raghbir Singh and the above mentioned management for adjudication to this Court,--*vide* Labour Department letter No. Bwn/421-88/6212-17, dated 9th February, 1989 :--

Whether termination of services of Raghbir Singh is justified and in order ? If not, to what relief is he entitled ?

2. According to workman, he was appointed as clerk for 89 ys in the scale of 400--600 and he joined as such on 1st March, 1984 and his appointment was extended from time to time till 3rd March, 1985, when his services were terminated by the management without any reason. He further alleged that he had worked for 356 days and the management had violated the provisions of Section 25-F of the Act in terminating his services. He further alleged that his termination was thus illegal and he is entitled to reinstatement with full back wages.

3. The management, in its written statement, pleaded that the petitioner was appointed for 89 days and after the expiry of 89 days, fresh appointment was given to him each time and the workman had not worked continuously for 240 days. It is further alleged that as the

petitioner was appointed for 89 days, the action of the management in terminating his services after the fixed period, was legal and no provision of the Act was violated by the management. It is further stated that the petitioner is not entitled to any relief.

4. On the pleadings of the parties, the following issues were framed on 11th September, 1989 by the then Presiding Officer, Labour Court, Rohtak :--

- (1) Whether the reference is not maintainable as alleged in the preliminary objection No. 2 of the W/S ?
- (2) Whether this Court has no jurisdiction to try the reference ?
- (3) Whether the petitioner is estopped to file the present case by his act and conduct ?
- (4) Whether the petitioner has no *locus standi* to raise the dispute ?
- (5) As per reference.

5. The parties led evidence in support of their rival claims. I have heard Shri T.C. Gupta for the workman and Shri D.S. Pawar for the management and have gone through the case file. My issue-wise findings are as under :--

Issues Nos. 1, 2, 3 and 4 :

6. No arguments were addressed on these issues by the authorised representative of the management and these issues were conceded to by him during arguments. All these issues are, therefore, decided against the management.

Issue No. 5 :

7. The management examined Satender Partap, Superintendent as MW-1, who stated on oath that the petitioner was appointed on *ad hoc* basis for 89 days and after the expiry of 89 days, fresh appointment letter was issued to him each time. He admitted in his cross-examination that the petitioner had worked for 356 days during the period from 1st March, 1984 to 3rd March, 1985 and that no notice was given to him, nor any retrenchment compensation was paid to him.

8. Admittedly, the petitioner had worked for more than 240 days during the preceding twelve calendar months and therefore, he was protected under the provisions of the Act. The management was bound to comply with the provisions of Section 25-F of the Act at the time of termination of services of the workman. Admittedly, the management did not do so. The non-compliance of the mandatory provisions of Section 25-F of the Act, has rendered the termination of services of the workman illegal. The petitioner is entitled to reinstatement.

9. So far as the back wages is concerned, admittedly the services of the workman were terminated on 3rd March, 1985, but he raised the demand notice only on 24th August, 1988. There is no explanation for this inordinate delay. Having regarded to the circumstances of the case that the workman raised the industrial dispute after more than three years without doing anything in the meanwhile to quash the termination of his services,

I am of the opinion that the workman is not entitled to any back wages for this period of delay i.e. from 4th March, 1985 to 24th August, 1988, when he raised the demand notice. The workman shall, however, be entitled to full back wages from 25th August, 1988 onwards. The issue is answered accordingly.

**Relief :**

10. In view of my findings on the above issues, the termination of services of the workman is held illegal. The same is hereby set aside. The petitioner is reinstated in the same post forthwith, with benefit of continuity of service and other consequential benefits. The workman shall however not be entitled to back wages from 4th March, 1985 to 24th August, 1988, but he shall be entitled to full back wages from 25th August, 1988 onwards. The reference is answered accordingly, with no order as to costs.

B.R. VOHRA,  
Presiding Officer,

The 5th April, 1994.

Industrial Tribunal-cum-Labour Court,  
Hisar.

Endorsement No.

Dated

A copy, is forwarded to the Labour Commissioner, Haryana, Chandigarh for information and necessary action.

B.R. VOHRA,  
Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Hisar.

P.R. KAUSHIK,  
Financial Commissioner and Secretary  
to Government, Haryana, Labour and  
Employment Department.